

Notice of Allowability

Application No.

10/808,949

Examiner

A. Dexter Tugbang

Applicant(s)

AIGNER ET AL.

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to appeal brief filed on June 14, 2007.
2. ☒ The allowed claim(s) is/are 1 and 31-40 (renumbered as 1-11, respectively).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>attached herein</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Mark Bilak (Reg. No. 47,423) on August 16, 2007.

The application has been amended as follows.

Claims 3 through 30 have been canceled.

In Claim 1, the phrase of "the bottommost layer," (line 7) has been replaced with --a bottommost layer as--; --of the layer stack--has been added after "second piezoelectric layer" (line 11); --of the layer stack--has been added after "third electrically conductive layer" (line 13).

Claim 31 has been amended as follows.

31. (Amended) The method as claimed in claim 1, wherein, before step e), ~~the~~ a resonant frequency of at least one of the stacked crystal filters produced is measured and ~~[in case correction of the resonant frequency is required]~~ in a further step, ~~the~~ a layer thickness of the third electrical conductive layer is corrected by local etching-away.

In Claim 33, "a layer" (line 2) has been replaced with --another layer--; and "the layer" (line 2) has been replaced with --the another layer--.

In Claim 34, "an electrically" (lines 1-2) has been replaced with --the electrically--

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In Claim 35, “the layer stack” (line 1) has been replaced with –the another layer stack--.

In Claim 40, “the central” (line 2) has been replaced with –a central--; “the wavelength” (line 4) has been replaced with –a wavelength--; and “the mechanical” (line 4) has been replaced with –a mechanical--.

Reasons for Allowance

2. The following is an examiner’s statement of reasons for allowance.

The prior art does not teach all of the limitations of the claimed invention (as recited in Claim 1 in its entirety) including producing at least a first opening in the third electrically conductive layer and the second electrically layer *of the layer stack* to provide a contact hole for the second electrically conductive layer, and producing a second openings in at least the third electrically conductive layer *of the layer stack* in such a way that at least two stacked crystal filters are produced (emphasis added).

In the Final Rejection (mailed on July 27, 2005), the examiner relied upon Seipler et al for the teachings of the above feature. While Seipler does teach forming a first opening in the third electrically conductive layer and second openings in the third electrically conductive layer, these openings are formed prior to, or before, applying a layer stack on a substrate that includes at least the second and third electrically conductive layers. As shown in Figure 1 of Seipler, and discussed at col. 2, lines 59+, the first opening and second openings are formed in each individual conductive layer before they are each assembled in a layer stack. Therefore, Seipler does not teach that step d (lines 10-15 of Claim 1) specifically occurs after step c (lines 6-9 of Claim 1).

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Furthermore, it would not be obvious to modify Seipler by having step d occur after step c, because to do so would destroy the structure of Seipler, thus, destroying the invention of Seipler.

Accordingly, Claim 1 and 31 through 40 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 571-272-4570. The examiner can normally be reached on Monday - Friday 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**/A. Dexter Tugbang/
Primary Examiner
Art Unit 3729**

August 17, 2007